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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERIC WILLIAM CARVER,

Plaintiff

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant

Case No. 1:20-cv-00565-SKO

**STIPULATION AND
ORDER FOR AWARD OF ATTORNEY'S
FEES UNDER THE EQUAL ACCESS TO
JUSTICE ACT (EAJA)**

(Doc. 33)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff shall be awarded attorney's fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. sec. 2412(d), in the amount of eight thousand six hundred seventy-five dollars (\$8,675.00), and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d). Accordingly, should this Court award fees and expenses under EAJA pursuant to this stipulation, Plaintiff's motion for attorney fees (ECF 31) would be moot.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of any assignment of EAJA fees by Plaintiff to her counsel Ashish A. Agrawal (Counsel). Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to

1 honor the assignment will depend on whether the fees are subject to any offset allowed under the
2 United States Department of the Treasury's Offset Program. After the order for EAJA fees is
3 entered, the government will determine whether they are subject to any offset.

4 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
5 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
6 and costs to be made directly to Counsel pursuant to an assignment executed by Plaintiff. Any
7 payments made shall be delivered to Counsel.

8 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
9 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
10 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
11 and all claims that Plaintiff and/or Counsel, including his firm, may have relating to EAJA attorney
12 fees in connection with this action.

13 This award is without prejudice to the rights of Jonathan Pena to seek Social Security Act
14 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA .

15 Respectfully submitted,

16 Dated: March 3, 2022

17 By: /s/ Jonathan Pena *
18 JONATHAN PENA
19 By email authorization on __3/3/22
20 Attorney for Plaintiff

21 Dated: March 3, 2022

22 PHILLIP A. TALBERT
23 United States Attorney

24 By: /s/ Marcelo Illarmo
25 MARCELO ILLARMO
26 Special Assistant United States Attorney
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ORDER

Based upon the parties' foregoing Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses (the "Stipulation") (Doc. 33), **IT IS ORDERED** that fees and expenses in the amount of \$8,675.00 as authorized by 28 U.S.C. § 2412, and no costs as authorized by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS FURTHER ORDERED that Plaintiff's motion for attorney fees (Doc. 31) is DENIED as MOOT.

IT IS SO ORDERED.

Dated: **March 4, 2022**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE